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SUPREME COURT OF WASHINGTON

CLERK

MICHAEL MILLER; VICKI RINGER; and JOANNE FAYE
TORGERSON, as trustee for the TORGERSON FAMILY TRUST;

Petitioners,

v.

ONE LINCOLN TOWER, LLC; BELLEVUE MASTER, LLC; and LS
HOLDINGS, LLC,

Respondents.

APPEAL FROM THE COURT OF APPEALS
DIVISION ONE

**RESPONDENTS' SECOND STATEMENT OF ADDITIONAL
AUTHORITIES**

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Pursuant to RAP 10.8, Respondents hereby file this second statement identifying additional authority pertinent to their Supplemental Brief:

1. Puget Sound Business Journal article, July 21, 2008, titled "Fewer Bellevue condos in works".
2. Seattle Times article, May 22, 2008, titled "Bellevue condo project, European Tower, put on hold".
3. Seattle Post-Intelligencer article, August 13, 2008, titled "Project's developers make switch from condos to rental apartments".

RESPECTFULLY SUBMITTED this 22nd day of September, 2008.

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Puget Sound Business Journal (Seattle) - July 21, 2008
<http://seattle.bizjournals.com/seattle/stories/2008/07/21/story2.html>

Puget Sound
BUSINESS JOURNAL
Business Leaders Get It.

Friday, July 18, 2008

Fewer Bellevue condos in works

Puget Sound Business Journal (Seattle) - by Kirsten Grind and Jeanne Lang Jones Staff Writers

Condominium development in Bellevue will nosedive next year with only one small project coming to market, in stark contrast to the Eastside city's current bustling construction scene.

As a result of increasingly challenging credit markets — affecting both developers and consumers — some projects have been put on hold, including the 15-unit European Tower and the 200-unit Lincoln Square II.

That means only 62 units will open next year, compared with more than 400 in each of the last two years.

The sluggish pace of condo sales also is prompting the delays. The problem is more pronounced in Bellevue than Seattle, because Bellevue's condo boom started later than Seattle's so there was less time for units to be sold before the credit markets tumbled, putting a squeeze on sales.

Just over 40 percent of Bellevue's total inventory through 2010 has been sold, compared with 68 percent in Seattle, according to Dean Jones, chief executive of **Realogics**, Seattle condominium research and marketing firm.

Many potential buyers are taking a wait-and-see attitude, said Jones. Existing condo sales in Bellevue are down 58 percent so far this year compared with 2007, according to the Northwest Multiple Listing Service. Buyers are keeping a nervous eye on the nation's struggling economy. Jones describes it as "an emotional overreaction" in a region that is still doing relatively well economically.

Some buyers are reluctant to commit to buying a condominium until they are sure they can sell their own home. The exception: the top tier of wealthy buyers.

"They are less concerned or less affected by any kind of credit crunch," said Jones. "If they want it, they will buy it."

But less wealthy buyers face more hurdles. They are having to put more money down or pay for

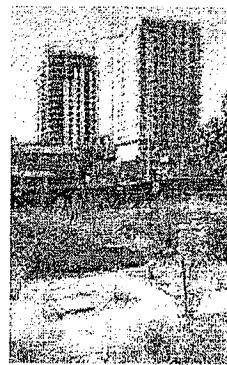


Photo: Marcus R. Denner

Weeds overgrow the site of the postponed European Tower condo project in Bellevue. In the background, two luxury apartment projects are under construction.

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mortgage insurance. And it's become more difficult for buyers to secure mortgage insurance, said Brandon Ehrlich, a senior mortgage banker in Seattle with First Horizon Home Loans. The company is the preferred lender at The Bravern, a 1.6-million-square-foot development including 450 condominium units and luxury retail.

"In high times, that was never a concern," said Ehrlich. "Things were selling quickly and projects were always reaching a sales completion state."

In addition, many banks and insurers now require developers to have a higher level of pre-sales in their projects before they'll agree to insure the developments. That's a challenge in an environment where sales are already dwindling.

Because of the tumultuous mortgage markets, developers also have to work more closely with buyers to make sure they're able to get a mortgage.

"What you're seeing now is everyone's looking toward the lender for education and the understanding of how you can work around the changes — what new types of products are coming on the market and what is revised for better or for worse," Ehrlich said.

Compounding the problem is the tough market for financing, a struggle that many developers are facing. Some of the 451 units scheduled for completion between 2011 and 2013 in Bellevue may fall by the wayside because financing hasn't been secured by developers, according to Realogics.

Denver-based developer Ray Tonsing plans to wait until his Vida development in Bellevue has completed permitting before tying down financing.

While Tonsing has two lenders interested in funding his project, on Northeast Eighth Street at 111th Avenue Northeast, their terms are less favorable than what he initially had planned.

Lenders shifted from wanting 10 percent down to wanting 25 percent down, and recourse to Tonsing and his investors personally should the project fail.

"I've never seen such a 180 in terms of the financial market," Tonsing said. "It's been incredible what has happened."

Additionally, lenders also want developers to sell as much as half of their building before they'll pony up financing.

Tonsing said he has about 1,000 potential buyers on a waiting list for Vida, which is offering smaller, less expensive units than other projects, with the average unit 700 square feet in size and under \$475,000.

Yet, despite the tougher borrowing terms, he has enough confidence in the Bellevue market that he has purchased another property for development.

With the region's relatively strong economy and home prices, "the Bellevue-Seattle market has the best story in the country," Tonsing said.

While there are similarities between Bellevue's condo market and Seattle's, there are also differences.

Condominiums being developed for Bellevue are typically larger and more expensive than their Seattle counterparts. That's partially because Bellevue's superblocks foster larger buildings.

The average Bellevue condo is larger at 1,123 square feet and more expensive at \$824 a square foot, than the average Seattle condo, which is 986 square feet and costs \$698 a square foot, according to Realogics.

One economic factor helping Bellevue's condo market is the large influx of high-tech jobs and a dose of international buyers, said Dan Ivanoff, managing investment partner for Schnitzer West, the developer of the Bravern.

The Bravern website, along with other condo websites, has been translated into several different languages to reach the growing number of foreigners looking into the Bellevue market. They're drawn by Bellevue's increasingly upscale status and job growth, according to developers.

"For some of them it's a second home and for some of them it's a place in between as a stopover on the way to New York," Ivanoff said.

There also are fewer condo projects in Bellevue than in Seattle in general, which makes for less competition all around.

"I don't think we're in a big oversupply risk," said Ivanoff.

Bellevue's status as a luxury community is also helping sales. At the 540-unit Bellevue Towers project, half of the six units sold recently were penthouses priced at \$2.5 million or above, said Patrick Clark, principal of Realty Trust City, the firm marketing the project.

Still, Clark said Bellevue Towers is 33 percent sold and units have been on the market since last May. The company expected to have sold 50 percent of the project by this time, said Clark.

About 300 units will be ready for move-in this year as well as one of the project's three restaurants, with the remaining retail and condos opening next year.

"We did see a slowdown starting last October and going into November," said Clark. "We're hoping to see an uptick going into the fall."

Sooner or later, Jones of Realogics figures, buyers will have to stop sitting on the fence.

"If you are interested in living in a new condo anytime in the next four years or longer, you will have to choose something under construction right now," Jones said.

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Thursday, May 22, 2008 - Page updated at 12:00 AM

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Bellevue condo project, European Tower, put on hold

By Eric Pryne
Seattle Times business reporter

The housing slowdown has claimed another local high-rise, high-end condo project.

The developer of 16-story European Tower, a downtown Bellevue project whose design features just one unit on each floor, said Wednesday that it won't start construction until the market turns around.

Eugene Gershman, chief operating officer of Bellevue-based GIS International Group, attributed the delay to reticence among prospective buyers whose current homes are taking longer to sell.

He said buyers indicated that if construction started now, the tower might be finished sooner than they could close on their units.

European Tower has all its permits, Gershman said, and construction will take 14 or 15 months once ground is broken.

Buyers have reserved six of the project's 16 units, he said. Prices at the complex, at Northeast 10th Street and 110th Avenue Northeast, range from \$2 million to \$5 million.

Gershman said he hopes construction can start this fall.

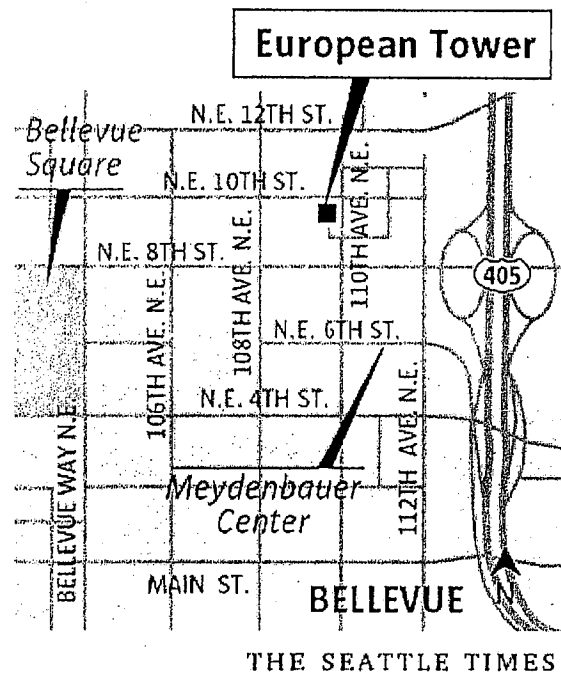
"European Tower is our cornerstone project — and it will happen," Gershman said.

European Tower's delay is the latest in a string of postponements. The Insignia Towers project in Seattle's Belltown neighborhood recently announced a delay, citing the market slowdown.

And earlier this year, work on the luxury 1 Hotel & Residences in downtown Seattle was postponed until at least late summer while developers redesign the project to make it more appealing to lenders.

Gershman said availability of financing was not a major reason for European Tower's delay. But Dean Jones, of the Seattle marketing firm Realogics, said tight credit is taking its toll on a number of downtown Seattle and

Condo tower construction delayed



Bellevue condo projects.

"If they're not under construction now, with a few exceptions, I would doubt we'll see any break ground this year," Jones said.

Lenders require a higher percentage of pre-sales while prospective buyers are holding back, he said. So, rather than reduce prices, developers are choosing to wait.

On another project, Gershman said GIS has made no decisions about how to develop a site it owns in Seattle's Denny Triangle, at Minor Avenue and Stewart Street.

Last year the firm proposed a 400-foot hotel-condo tower there. But last week, the city Department of Planning and Development approved a 440-foot apartment tower next door. City rules for the area ban towers that tall that close together.

Records show that GIS representatives told a city design-review board in October that the developer would look at reducing its building to 160 feet if the tower next door were approved. But Gershman said nothing has been decided.

"We still have ways to achieve what we want to achieve there," he said.

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man is a sentimental favorite

The price of fame

A column earlier this year sparked a flurry of interest about the ferret rescue operation Michael and Denise Cummings run out of their Auburn home. There was TV news coverage, an appearance on "Northwest Afternoon" and a segment on "Evening Magazine."

The downside? The column drew the attention of Auburn city officials who told the couple their 140 ferrets put them out of compliance with city code. The couple worried they'd be shut down.

The good news? Michael says it appears the city will grant a home occupation permit for them once they get a business license and a shelter permit from the county. An inspector has been out to see

the operation, he said.

"So we're moving forward," says Michael, notably relieved. "People call us from all over the world for information. They don't realize they're a high-maintenance pet. Education, education, education — and adoption. That's what we're about."

Ride on!

Daniel Weatherhogg, a graduate of Skyline High, played sports and led an active lifestyle. Then Crohn's disease, a serious and chronic digestive disorder that often disrupts normal living, sidelined him.

Depressed, he abused alcohol and drugs and, for a time, contemplated suicide. No longer. Weatherhogg, a South King County resident who works at Movin' 92.5 FM radio in Bellevue, found hope

through Get Your Guts in Gear (GYGIG), a national organization that provides support and community for those living with Crohn's disease and ulcerative colitis. The organization sponsors bike rides in different parts of the country to raise money for those affected.

Earlier this month, 25 riders took part in a three-day, 210-mile Seattle-area ride. (The number was down from 60 a year ago, a reflection of the bad economy, says Lois Fink, one of the event volunteers.)

Health issues prevented Weatherhogg from doing the ride. He settled for being part of the crew. "I share my story," he says, "because I want to help any way I can."

P-I columnist Mary Swift can be reached at 206-909-9612 or swiftyk@netcapa.com.

Project's developers make switch from condos to rental apartments

BY AUBREY COHEN
P-I reporter

When Moda Condominiums started accepting reservations in September 2006, prospective buyers lined up hours early and quickly locked up all 251 units.

Now, with the Belltown building two months from completion, Moda's developers have changed it to rental apartments.

"The market and the financing conditions for condominiums have really taken a drastic turn," said developer G. David Hoy, head of HMI Real Estate Inc. "The vast majority of (Moda's) buyers decided not to proceed with the purchase of their unit."

Some buyers found they could no longer get a loan, particularly for second homes or investment units, while others just

got cold feet, Hoy said. "Because the vast majority have bailed out on us, we have no choice now but to turn it into a rental."

The slow market made trying to find new buyers a daunting prospect, he said.

Moda initially made news because of its "New York-style living," with units as small as 296 square feet and prices starting at \$149,950 — cheap for Belltown. Sizes ranged from studios through two-bedroom condos.

Rick Hooper, policy director for Seattle's Office of Housing, praised the project for providing more affordable for-sale homes downtown, close to jobs and transportation.

"To find a developer who's able to put an attractive product on the market that hits that lower price range is fantastic," he said.

Several prominent area projects have switched from condos to apartments in recent months, citing the slowing for-sale market and relatively strong one for rentals. As of March, the average rent for a Belltown studio apartment was \$1,045, up nearly 10 percent from a year earlier; the studio vacancy rate was 4.3 percent, up from 3.4 percent a year earlier but still far lower than the March 2006 rate of 5 percent.

Moda still could go back to being condos at some point, Hoy said. "I guess when the market turns, we'll have to evaluate it at that time."

P-I reporter Aubrey Cohen can be reached at 206-448-8362 or aubreycohen@seattlepi.com. Read his Real Estate News blog at blog.seattlepi.com/realestatenews.

FISH: Other pesticides also face review

FROM BI

"That's what happens if you hold them in that concentration for four days. That never happens in the real world," Hansen said. "It tends to be a pulse, and then it's gone."

She said measurements in the field by the Washington Ecol-

ogical Services Agency are ramping down of the salmon's sense of smell is particularly important, because young salmon learn to avoid predators when they smell the blood of other young fish in the water. If they fail to pick up the scent, they get chomped.

TOTAL P.17